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PAGE 01 IAEA V 08015 01 OF 02 171620Z

53

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INFO OCT-01 ARA-16 EUR-25 EA-11 IO-14 ISO-00 ACDA-19 AF-10

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E.O. 11652: N/A

TAGS: PARM, TECH, IAEA

SUBJECT: IAEA 18TH GENERAL CONFERENCE: ARGENTINE

SAFEGUARDS AGREEMENT

REF: IAEA VIENNA 7583, 7536, 7414

1. SUMMARY: AT ITS MEETING SEPTEMBER 13, BOARD
INSTRUCTED DG TO CONTINUE NEGOTIATIONS WITH ARGENTINA
WITH VIEW TO ARRIVING AT SAFEGUARDS AGREEMENT BASED ON
CONCEPTS CONTAINED GOV/1621 AND DECIDED TO REMAIN
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PAGE 02 IAEA V 08015 01 OF 02 171620Z

PREPARED TO HOLD SPECIAL MEETING OF BOARD AS SOON AS

NEGOTIATIONS SATISFACTORILY COMPLETED. END SUMMARY.

2. AS WAS TRUE IN CASE OF PNE AGENDA ITEM, BOARD WAITED UNTIL NEAR THE END OF ITS SESSION TO CONSIDER THE SAFEGUARDS AGREEMENT BETWEEN ARGENTINA AND THE AGENCY UNDER AGENDA ITEM 4(A); DOCUMENTS INCLUDED TEXT OF 25 AGREED ARTICLES AND EXPLANATION OF INABILITY TO REACH AGREEMENT ON 26TH (DURATION AND PROVISIONS FOR SAFEGUARDS IN EVENT OF TERMINATION) CONATINED GOV/1694 AND ARGENTINE PROPOSAL FOR FINAL ARTICLE (GOV/1701) CIRCULATED ON MORNING OF MEETING. OPENING DISCUSSION, DG PRESENTED DRAFT OF AGREEMENT, WITH FINAL ITEM LEFT BLANK. HE APOLOGIZED FOR SECRETARIAT DELAY IN RESPONDING TO ARGENTINA'S REQUEST TO NEGOTIATE AND FOR LATE RELEASE OF UNFINISHED DRAFT AND ASKED BOARD'S ADVICE ON HOW TO PROCEED FURTHER.

3. ARGENTINE DELEGATE (IRAOLAGOITIA) SPOKE NEXT, CRITICIZING AGENCY'S "INFLEXIBLE ATTITUDE" IN NEGOTIATIONS AND ITS DELAY IN RESPONDING, BOTH OF WHICH THREATENED TO SERIOUSLY SET BACK TIME TABLE FOR COMPLETION RIO TERCERO PROJECT. HE ASSERTED THAT ARGENTINA HAD MADE CONCESSIONS, IN THAT: IT COULD ACCEPT A 15-YEAR DURATION OF THE AGREEMENT, THREE TIMES THE PERIOD COVERED UNDER THE ATUCHA AGREEMENT, AGREEMENT ENTERS INTO FORCE UPON INITIAL CRITICALITY OF REACTOR RATHER THAN FROM DATE OF SIGNATURE; IT WOULD INCLUDE PROVISION FOR RENEWAL; AND ALSO PROVISION FOR CONTINUATION AFTER TERMINATION OF AGREEMENT OF SAFEGUARDS ON MATERIAL PRODUCED WHILE AGREEMENT WAS IN FORCE; AGENCY HAD NO RIGHT TO IMPOSE GOV/1621 CONCEPTS IN THE CASE OF A VOLUNTARY UNILATERAL SUBMISSION BY ARGENTINA TO THE AGENCY.

4. GOVERNOR FROM CHILE TOOK FLOOR BRIEFLY TO SUPPORT ARGENTINA POSITION. US GOVERNOR MADE STATEMENT REAFFIRMING US POSITION IN SEPTEMBER 1973 DISCUSSION OF GOV/1621 THAT IT WAS "UNTHINKABEL" THAT AGENCY WOULD LEND ITSELF TO ARRANGEMENT UNDER WHICH A STATE WHICH HAD REQUESTED APPLICATION OF SAFEGUARDS IN AN INSTALLATION WITH A LIFETIME OF 30 YEARS COULD, BEFORE THAT TIME WAS REACHED, ASK THE AGENCY TO TERMINATE SAFEGUARDS ON NUCLEAR MATERIAL PRODUCED UP TO LIMITED OFFICIAL USE

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PAGE 03 IAEA V 08015 01 OF 02 171620Z

THAT PARTICULAR TIME AND ALSO ON FUTURE PRODUCTION DURING THE REACTOR'S REMAINING LIFE. HE POINTED OUT THAT US AGREEMENT WITH ARGENTINA, LIKE ALL US TRILATERAL AGREEMENTS, INCLUDES PROVISIONS HAVING SAME EFFECT OF GOV/1621. POLICY OF US AS A SUPPLIER OF NUCLEAR MATERIAL, EQUIPMENT OR OTHER MATERIAL INVOLVING THE APPLICATION OF SAFEGUARDS UNDER INFCIRC/66/REV.2, REMAINED FIRM THAT THOSE SAFEGUARDS AGREEMENTS MUST CONTAIN PROVISIONS EMBODYING CONCEPTS OF

GOV/1621.

5. SUBSEQUENT DEBATE PRODUCED SIMILAR STATEMENTS OF POLICY RE GOV/1621 BY REPS OF CANADA, USSR, AUSTRALIA, SWEDEN AND SWITZERLAND. FRG ENDORSED GOV/1621 AS CLEAR GUIDELINE FOR DG TO FOLLOW. FRENCH GOVERNOR RESTATED KNOWN FRENCH POSITION THAT ISSUE WAS ONE BETWEEN SUPPLIER AND RECIPIENT.

6. US WAS FOLLOWED IN RAPID-FIRE ORDER BY SERIES OF 8 STATEMENTS FROM SUPPLIERS OR POTENTIAL SUPPLIERS OF NUCLEAR MATERIALS AND EQUIPMENT ESSENTIALLY ENDORSING IN GENERAL CONCEPTS CONTAINED GOV/1621, AND THEIR APPLICABILITY IN THIS PARTICULAR CASE; PROPOSAL BY BRAZIL DURING DISCUSSION TO ADJOURN DEBATE TO PERMIT TIME FOR FURTHER NEGOTIATIONS AND SECOND INTERVENTION BY ARGENTINIAN, FAILED TO STEM THIS TIDE. AUSTRALIA FELT DG ACTED QUITE PROPERLY IN TAKING CONCEPTS CONTAINED GOV/1621 AS FRAMEWORK FOR HIS NEGOTIATIONS; HE HAS BEEN AND REMAINS BOUND TO APPLY THOSE CONCEPTS, WHICH WERE BOTH REASONABLE AND ALREADY IMPLICIT IN AGENCY SAFEGUARDS AGREEMENTS. UK ENDORSED REMARKS OF US AND AUSTRALIA, AND STATED THAT POSITION OF UK IN SUPPLYING ITEMS REQUIREING APPLICATION OF AGENCY SAFEGUARDS WAS TO REQUIRE THAT THOSE SAFEGUARDS FULLY IMPLEMENT CONCEPTS CONTAINED GOV/1621. USSR STATED IT HAD SUPPORTED ADOPTION OF GOV/1621 BY BOARD AS CONTRIBUTING TO EFFICACY OF AGENCY SAFEGUARDS, AND CONTINUES TO SUPPORT CONCEPTS IN THAT DOCUMENT. CANADIAN GOVERNOR (BEESLEY) STATED THAT, AS MEMBER OF BOARD, CANADA ADHERES TO CONCEPTS IN GOV/1621 AND URGED THAT DG CONTINUE TO NEGOTIATE WITH OBJECTIVE OF ATTAINING AGREEMENT EMBODYING THOSE CONCEPTS. CANADA, HOWEVER, HAD ANOTHER AND MORE DIRECT INVOLVEMENT IN THIS PARTICULAR CASE AS CANADIAN FIRM

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PAGE 04 IAEA V 08015 01 OF 02 171620Z

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PAGE 01 IAEA V 08015 02 OF 02 171829Z

53

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LIMITED OFFICIAL USE SECTION 2 OF 2 IAEA VIENNA 8015

HAD CONTRACTED FOR PROVISION OF NUCLEAR STEAM SUPPLY SYSTEM FOR THIS PROJECT. CANADA WAS OBLIGED TO CONSIDER THAT SAFEGUARDS WERE ESSENTIAL IN CASE OF ANY SALE OF REACTOR ABROAD AND HAD AGREED TO THIS SALE ON CONDITION THAT REACTOR BE SUBJECT TO AGENCY SAFEGUARDS; IN CASE OF NON-PARTIES TO NPT, IT INTERPRETED THIS OBLIGATION AS REQUIRING SAFEGUARDS PURSUANT INFCIRC/66/REV.2, AND CANADA'S UNDERSTANDING WAS THAT GOV/1621 CONCEPTS WERE CLARIFICATION AND DEVELOPMENT OF PRINCIPLES CONTAINED IN FORMER DOCUMENT. AFTER SOME WASPISH REMARKS ABOUT PROCEDURAL DELAYS INVOLVING THIS AGREEMENT, FRG SUGGESTED CONTINUATION OF NEGOTIATIONS
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PAGE 02 IAEA V 08015 02 OF 02 171829Z

WITH ARGENTINA BEARING IN MIND THAT AGENCY HAD ONLY TWO SAFEGUARDS SYSTEMS; IN CASE OF ARGENTINA, AS NON-PARTY TO NPT, ANY AGREEMENT MUST BE PURSUANT TO INFCIRC/66/REV.2, AND IT WAS THEREFORE ESSENTIAL THAT CONCEPTS CONTAINED GOV/1621 MUST APPLY TO ANY AGREEMENT WITH ARGENTINA. FRG SAW NO INDICATION THAT EXCEPTIONAL CIRCUMSTANCES REFERRED TO WHEN BOARD ADOPTED GOV/1621 EXISTED IN THIS CASE TO JUSTIFY DEPARTURE FROM THOSE CONCEPTS. CALLING ATTENTION TO RECENTLY-CIRCULATED INFCIRC/209, FRG FOUND IT DIFFICULT

FOR A STATE TO SUPPLY, OR FOR ANY OTHER STATE TO SUPPLY, NUCLEAR MATERIAL FOR EQUIPMENT WITHOUT APPLICATION OF SAFEGUARDS FULLY CONSISTENT WITH THE STANDARDS OF INFCIRC/66/REV.2. SWEDEN SAID SIMPLY THAT IT APPRECIATED DIFFICULTIES WHICH MIGHT EXIST IN THIS CASE, BUT THAT THESE WERE NOT SUCH AS TO JUSTIFY DEPARTURE FROM BOARD AGREEMENT RELATING TO ACCEPTANCE OF GOV/1621; DG SHOULD THEREFORE FEEL HIMSELF BOUND BY PROVISIONS OF THAT DOCUMENT IN CONTINUING NEGOTIATIONS. ITALY BRIEFLY ASSOCIATED ITSELF WITH REMARKS OF OTHER SPEAKERS, ESPECIALLY SWEDEN. SWITZERLAND CONSIDERED THAT AGENCY REMAINED BOUND TO PROMOTE NON-PROLIFERATION BOTH WITHIN AND OUTSIDE FRAMEWORK OF NPT; IT WOULD THEREFORE NOT BE APPROPRIATE FOR AGENCY TO MAKE EFFORT TO GIVE UNUSUALLY FAVORABLE CONDITIONS TO NON-PARTY TO NPT. CREDIBILITY OF AGENCY SAFEGUARDS MUST BE MAINTAINED, ESPECIALLY IN VIEW OF OTHER RECENT EVENTS, AND AGENCY OUGHT THEREFORE TO ADOPT FIRM ATTITUDE; SWITZERLAND RECOMMENDED THAT DG CONTINUE TO SEEK AGREEMENT IN ACCORD WITH CONCEPTS OF GOV/1621.

7. FRANCE, IN INTERESTING EXAMPLE OF LOGICAL TRIMMING, RECALLED THAT COMPROMISE SOLUTION WHICH HAD LED TO ACCEPTANCE BY BOARD OF GOV/1621 HAD BEEN REACHED IN DIRECT NEGOTIATIONS BETWEEN FRENCH AND US GOVERNORS, AND FRANCE FELT THAT AGENCY SHOULD NOT BE LEFT IN ALL-OR-NOTHING SITUATION REGARDING APPLICATION OF SAFEGUARDS OR NEGOTIATION OF AGREEMENTS. IF A COUNTRY PROPOSED THAT THE AGENCY APPLY SAFEGUARDS UNILATERALLY ON AN INSTALLATION INVOLVING STRICTLY ITS OWN RESOURCES, AND FOR A REASONABLE PERIOD OF TIME, THE AGENCY SHOULD NOT REFUSE TO HONOR THIS REQUEST. (UNSPOKEN EXAMPLE WAS INDIA). ON OTHER HAND, CURRENT SITUATION DIFFERED, AS IT INVOLVED BILATERAL AGREEMENT BETWEEN LIMITED OFFICIAL USE

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PAGE 03 IAEA V 08015 02 OF 02 171829Z

STATES PRESENTED UNILATERALLY TO AGENCY, RATHER THAN TRULY UNILATERAL ACTION. CANADA HAD STATED CONDITIONS WHICH IT WISHED IN THE BILATERAL AGREEMENT; IN SUCH CASES, BOTH PARTIES SHOULD COME TO AGREEMENT, BUT SUPPLIER STATE HAD MAJOR VOICE IN MATTER. FRANCE HOPED THAT FURTHER NEGOTIATIONS WOULD PRODUCE COMPROMISE BETWEEN AGENCY AND ARGENTINA WHICH WOULD BEAR IN MIND DESIRES OF SUPPLIER STATE; FRANCE CONSIDERED THAT WHEN A FULLY UNILATERAL SUBMISSION OCCURRED, THEN THE AGENCY MIGHT NOT BE BOUND TO AUTOMATIC APPLICATION OF CONCEPTS CONTAINED IN GOV/1621. COMMENT: THIS TYPE OF ARGUMENT IS MORE-OR-LESS LOGICAL CONTINUATION OF STANDARD FRENCH POSITION THAT SAFEGUARDS ARE MATTER FOR CONSENTING ADULT GOVERNMENTS IN WHICH THIRD PARTIES OUGHT NOT INTERVENE, BUT HAS INTERESTING TWIST THAT IT APPEARS TO REMOVE PROSPECTS OF FRENCH ACQUIESCENCE IN NON-APPLICATION OF GOV/1621 CONCEPTS IN ANY FUTURE UNILATERAL SUBMISSIONS OF SAFEGUARDS

AGREEMENTS WHENEVER SUPPLIER STATE HAS INDICATED (AS VAST MAJORITY OF CREDIBLE SUPPLIERS IN WORKD DID IN THIS DISCUSSION) THAT IT INSISTS UPON AGREEMENT EMBODYING SUCH CONCEPTS. MISSION FEELS THAT THIS IS MOST WELCOME DEVELOPMENT, AND HELPS TO ASSURE THAT GOV/1621 WILL NOT BE BURNING ISSUE IN FUTURE. AS FOR CASE WHEN A COUNTRY SUCH AS ARGENTINA CAN BUILD A REACTOR ENTIRELY FROM ITS OWN RESOURCES WITHOUT INVOLVING ANY MAJOR SUPPLYING STATE, MISSION FEELS THAT ENOUGH YEARS WILL INTERVENE BEFORE BOARD IS CONFRONTED WITH SUCH A SITUATION THAT WE CAN BURN THAT PARTICULAR BRIDGE WHEN WE GET TO IT. END COMMENT.

8. IN MASTERLY CONSENSUS SUMMATION, CHAIRMAN VOICED VIEWS OF "SUBSTANTIAL MAJORITY OF BOARD" AS FOLLOWS: BOARD HAD STUDIED DRAFT AGREEMENT CONTAINED GOV/1694, AND HEARD DG, ARGENTINE AND OTHER STATEMENTS RELATING TO IT. BOARD NOW ASKED DG TO CONTINUE NEGOTIATIONS IN ACCORDANCE WITH GUIDELINES CONTAINED IN GOV/1621, AND ERNESTLY REQUESTED ARGENTINE GOVERNOR TO SEEK AUTHORITY FROM HIS GOVERNMENT TO DO SAME. BOARD ASKED ARGENTINE GOVERNOR TO INFORM HIS GOVERNMENT THAT BOARD WAS PREPARED TO MEET AT ANY TIME, AT SHORT NOTICE, TO CONSIDER AGREEMENT WHICH COULD THUS BE REACHED.

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PAGE 04 IAEA V 08015 02 OF 02 171829Z

9. COMMENT: OUTCOME ON THIS ISSUE WOULD APPEAR RATHER DISTINCTLY UNSATISFACTORY FOR PRIOR ARGENTINE POSITION; ARGENTINA HAS BEEN TOLD IN NO UNCERTAIN TERMS BY MAJORITY OF MAJOR MEMBERS OF BOARD, INCLUDING VIRTUALLY ALL CREDIBLE ALTERNATIVE SUPPLIERS FOR RIO TERCERO PROJECT, THAT IT WILL HAVE TO TAKE SAFEGUARDS AGREEMENT FOR PROJECT EMBODYING CONCEPTS CONTAINED GOV/1621 OR ELSE. BALL NOW APPEARS TO BE IN ARGENTINE COURT. IN EVENT THEY AGREE TO RESUME NEGOTIATIONS WITHIN FRAMEWORK PROVIDED BY GOV/1621 AND SATISFACTORY AGREEMENT ON DURATION/TERMINATION ARTICLE IS REACHED, SPECIAL BOARD SESSION COULD BE HELD AT ALMOST ANY TIME, BUT MOST LIKELY DATE WOULD APPEAR TO BE ONE SCHEDULED IN CONJUNCTION WITH MEETING OF BOARD'S TECHNICAL ASSISTANCE COMMITTEE IN LATE NOVEMBER OF THIS YEAR. NEITHER INDIA NOR PAKISTAN SPOKE ON THE ISSUE. END COMMENT. TAPE

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